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UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
MEDFORD DIVISION

IVAN HOOKER AND KATHERINE HOOKER, ) Case No.: 10-CV-3111-PA  
Plaintiffs, )  
vs. ) SUPPLEMENTAL REPLY BRIEF ON  
NORTHWEST TRUSTEE SERVICES, INC.; BANK OF AMERICA, NA; ) JACKSON ISSUE  
MORTGAGE ELECTRONIC )  
REGISTRATION SYSTEMS, INC. )  
Defendants. )  
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Plaintiff files this supplemental reply brief on the Jackson Issue.

Plaintiffs counsel' has found no new case law regarding the assignment of the underlying trust deed as opposed to the promissory note. However, in a memorandum decision in the Agard case from the United States Bankruptcy Court for the Eastern District of New York by Judge Grossman is an excellent authority on MERS. The case is attached hereto as Exhibit 1, and by this reference incorporated herein.

Obviously, plaintiffs agree with the dissent in Jackson. If the assignment of the promissory note is also an equitable assignment of the deed of trust, then the statute requires the assignment of the deed of trust to be recorded.

As a practical matter, this is sound public policy. The public or any other entity researching the public records would not be able to find these assignments, unless they were part of the MERS system. Further, since MERS members do not record any assignments until they assign the trust deed or the note outside of the MERS system or at foreclosure, there is no possible way for anyone to determine the actual owner of either the promissory note or the deed of trust.

A brief look at the deed of trust and the promissory note lead the Court to the inescapable conclusion that the lender was GN Mortgage, LLC. However, on document 22, which is the MERS trail the investor is listed as Guaranty Bank, FSB. Guarantee Bank FSB allegedly transferred the beneficial interest of the deed of trust to Wells Fargo Home Mortgage, on or about December 9, 2005. Therefore, according to MERS, GN Mortgage, LLC never had an interest in the promissory note or the deed of trust, ever.

Further, according to the MERS trail, Wells Fargo Home Mortgage transferred the beneficial interest of the promissory note and the trust deed to Bank of America on July 15, 2006. Again, none of these assignments of the trust deed were recorded. There is no way the public would have any clue of who the actual owner of the promissory note or the trust deed was, by the records of Jackson County. As Justice Page stated: "finally, it is apparent with the benefit of hindsight that the ability of lenders to freely and anonymously transfer notes among themselves facilitated, if not created, the financial and banking crisis in which our country currently finds itself."

Finally, the court should take notice that the MERS trail is inaccurate. GN Mortgage is not even listed on the MERS trail.

Since MERS and the banks created this system which has completely made a sham out of the normal way mortgages were assigned in the past, they should be the ones to pay the price. The people of the state of Oregon had

nothing to do with it. The court should hold that any beneficial interest in the trust deed, including equitable interest that have been assigned, have to be recorded in order to foreclose by advertisement and sale.

Dated: Friday, February 25, 2011

**JAMES J. STOUT, P.C.**

By /s/ James J. Stout  
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CERTIFICATE OF SERVICE

**Case No.** 10-CV-3111-PA

I, James J. Stout, hereby certify that I served the foregoing  
**SUPPLEMENTAL RESPONSE TO MOTION TO DISMISS** on Friday, February  
25, 2011, via ECF:

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